

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 22-1377-MN
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
MASIMO CORPORATION and	)	
SOUND UNITED, LLC,	)	
	)	
Defendants.	)	<b>PUBLIC VERSION</b>
	)	
<hr/>		
MASIMO CORPORATION,	)	
	)	
Counter-Claimant,	)	
	)	
v.	)	
	)	
APPLE INC.,	)	
	)	
Counter-Defendant.	)	

**DECLARATION OF KERRI-ANN LIMBEEK IN SUPPORT OF PLAINTIFF  
APPLE INC.'S MOTION FOR AN EXPEDITED TRIAL**

OF COUNSEL:

John M. Desmarais  
Jordan N. Malz  
Cosmin Maier  
Kerri-Ann Limbeek  
DESMARAIS LLP  
230 Park Avenue  
New York, NY 10169  
Tel: 212-351-3400

Peter C. Magic  
DESMARAIS LLP  
101 California Street  
San Francisco, CA 94111  
Tel: 415-573-1900

David E. Moore (#3983)  
Bindu A. Palapura (#5370)  
Andrew L. Brown (#6766)  
POTTER ANDERSON & CORROON LLP  
Hercules Plaza, 6<sup>th</sup> Floor  
1313 N. Market Street  
Wilmington, DE 19801  
Tel: (302) 984-6000  
[dmoore@potteranderson.com](mailto:dmoore@potteranderson.com)  
[bpalapura@potteranderson.com](mailto:bpalapura@potteranderson.com)  
[abrown@potteranderson.com](mailto:abrown@potteranderson.com)

*Attorneys for Plaintiff/Counter-Defendant  
Apple Inc.*

Dated: February 3, 2023  
10580653 / 12209.00051

Public Version Dated: February 10, 2023

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 22-1377-MN
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
MASIMO CORPORATION and	)	
SOUND UNITED, LLC,	)	
	)	<b>PUBLIC VERSION</b>
Defendants.	)	
<hr style="border: 0.5px solid black;"/>		
MASIMO CORPORATION,	)	
	)	
Counter-Claimant,	)	
	)	
v.	)	
	)	
APPLE INC.,	)	
	)	
Counter-Defendant.	)	

**DECLARATION OF KERRI-ANN LIMBEEK IN SUPPORT OF PLAINTIFF  
APPLE INC.'S MOTION FOR AN EXPEDITED TRIAL**

I, Kerri-Ann Limbeek, declare and state as follows:

1. I am an attorney and partner at the law firm Desmarais LLP, counsel of record for Plaintiff Apple Inc. ("Apple") in the above-captioned case. I am licensed to practice law by and in good standing with the Bar of the State of New York. I submit this declaration based on personal knowledge, and if called upon as a witness, could competently testify to the truth of each statement herein.

2. I submit this declaration in support of Apple's Motion for an Expedited Trial, submitted concurrently herewith.

3. Attached as **Exhibit A** is a copy of “Apple Expands Apple Watch Marketing Efforts With New Multi-Page Spread in Vogue Magazine” (Feb. 25, 2015), available at <https://www.macrumors.com/2015/02/25/apple-watch-vogue-magazine-march/>.

4. Attached as **Exhibit B** is a copy of “Medical Pioneer Masimo Announces the Full Market Consumer Release of the Masimo W1™, the First Watch to Offer Accurate, Continuous Health Data” (Aug. 31, 2022), available at <https://investor.masimo.com/news/news-details/2022/Medical-Pioneer-Masimo-Announces-the-Full-Market-Consumer-Release-of-the-Masimo-W1-the-First-Watch-to-Offer-Accurate-Continuous-Health-Data/default.aspx>.

5. Attached as **Exhibit C** is a copy of the Masimo W1 product webpage, available at <https://www.masimopersonalhealth.com/products/masimo-w1> (last accessed Dec. 9, 2022).

6. Attached as **Exhibit D** is a copy of “Masimo (MASI) Q2 2022 Earnings Call Transcript” (Aug. 10, 2022), available at <https://www.fool.com/earnings/call-transcripts/2022/08/10/masimo-masi-q2-2022-earnings-call-transcript/>.

7. Attached as **Exhibit E** is a copy of “Masimo Closes Acquisition of Sound United” (Apr. 12, 2022), available at <https://www.soundunited.com/news/Masimo%20Closes%20Acquisition%20of%20Sound%20United>.

8. Attached as **Exhibit F** is a copy of “Masimo completes acquisition of Sound United” (Apr. 12, 2022), available at <https://www.massdevice.com/masimo-completes-acquisition-of-sound-united/>.

9. Attached as **Exhibit G** is a copy of “Masimo (MASI) Q1 2022 Earnings Call Transcript” (May 4, 2022), available at <https://www.fool.com/earnings/call-transcripts/2022/05/04/masimo-masi-q1-2022-earnings-call-transcript/>.

10. Attached as **Exhibit H** is a copy of “Masimo (MASI) Q4 2021 Earnings Call Transcript” (Feb. 15, 2022), available at <https://www.fool.com/earnings/call-transcripts/2022/02/15/masimo-masi-q4-2021-earnings-call-transcript/>.

11. Attached as **Exhibit I** is a copy of “Masimo Corporation Analyst/Investor Day” (Dec. 13, 2022), available at <https://www.capitaliq.spglobal.com/apisv3/docviewer/documents?mid=197045029>.

12. Attached as **Exhibit J** is a copy of Defendants Masimo Corporation and Sound United, LLC’s Responses and Objections to Apple’s Interrogatory No. 1, served on January 11, 2023.

13. Attached as **Exhibit K** is a copy of the Declaration of Eric Jue in Support of Apple Inc.’s Motion for an Expedited Trial, dated January 18, 2023, and exhibits thereto.

14. Attached as **Exhibit L** is a copy of the Declaration of Peter Russell-Clarke in Support of Apple Inc.’s Motion for an Expedited Trial, dated January 12, 2023.

15. Attached as **Exhibit M** is a copy of the Declaration of Alan D. Ball in Support of Apple Inc.’s Motion for an Expedited Trial, dated January 29, 2023, and exhibits thereto.

16. Attached as **Exhibit N** is a copy of the Declaration of Dr. Itamar Simonson in Support of Apple Inc.’s Motion for an Expedited Trial, dated January 27, 2023, and exhibits and appendices thereto.

17. Attached as **Exhibit O** is a copy of the Declaration of James Malackowski in Support of Apple Inc.’s Motion for an Expedited Trial, dated January 30, 2023, and appendices thereto.

18. Attached as **Exhibit P** is a copy of the Official Transcript of Oral Argument Hearing held on February 7, 2014 before Judge Leonard P. Stark in *SecureBuy, LLC v. CardinalCommerce Corporation*, No. 13-cv-1792-LPS, D.I. 53.

19. Attached as **Exhibit Q** is a copy of the Proposed Order (Scheduling Order) filed by Gavreili Brands LLC on July 9, 2018 and adopted on July 11, 2018 in *Gavrieli Brands LLC, v. Soto Massini (USA) Corp.*, 1:18-cv-00462-MN, D.I. 44.

20. Attached as **Exhibit R** is a copy of an Exemplary Eight-Month Proposed Scheduling Order [Patent, Non-ANDA] proposed by Apple for this matter, *Apple Inc. v. Masimo Corp. et al.*, No. 1:22-cv-01377-MN.

I declare the foregoing to be true and correct under penalty of perjury.

Dated: February 3, 2023

By: /s/ Kerri-Ann Limbeek  
Kerri-Ann Limbeek

**DESMARAIS LLP**  
230 Park Avenue  
New York, NY 10169  
Tel: 212-351-3400  
klimbeek@desmaraisllp.com

*Attorney for Plaintiff Apple Inc.*